

UTILITIES DIVISION[199]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code sections 17A.4 and 476.2 and 2008 Iowa Acts, Senate File 2248, the Utilities Board (Board) gives notice that on September 3, 2008, the Board issued an order in Docket No. RMU-08-5, In re: Revisions to Rules Governing Certificates of Franchise Authority for Cable and Video Service [199 IAC 44], "Order Commencing Rule Making."

The proposed amendments revise the Board's rules at 199 IAC 44 regarding certificates of franchise authority for cable and video service providers. Two of the proposed revisions reflect recent legislative changes. 2008 Iowa Acts, Senate File 2248, became effective on July 1, 2008, and made two changes to Iowa Code chapter 477A, the statute authorizing the Board to issue certificates of franchise authority to cable and video service providers. Senate File 2248 removed counties from the definition of "municipality" in Iowa Code section 477A.1(12) and added a provision to Iowa Code section 477A.2(2)"b" to allow a service provider that is subject to an existing municipal franchise to file an application for a certificate of franchise authority from the Board within 60 days prior to the expiration of the municipal franchise. The proposed amendments revise Board rule 44.2(17A,476,82GA,SF554) to reflect the amended definition of "municipality" and subrule 44.3(1) to add a provision allowing an application from a service provider subject to an existing municipal franchise agreement to be filed prior to expiration of the franchise agreement.

The proposed amendments also revise subrules 44.3(5) and 44.3(7) to require a service provider to specify the effective date of a service area modification or certificate termination and revise subrules 44.3(5) through 44.3(7) to provide that the Agency will acknowledge receipt of notice of service area modification, certificate transfer, or certificate termination by letter.

The order commencing rule making contains a more thorough discussion of the proposed rule making. The order is available on the Board's Web site at www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before October 14, 2008, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

No oral presentation is scheduled at this time. Pursuant to Iowa Code section 17A.4(1)"b," an oral presentation may be requested, or the Board on its own motion may determine that an oral presentation should be scheduled.

These amendments are intended to implement Iowa Code sections 17A.4 and 476.2 and 2008 Iowa Acts, Senate File 2248.

The following amendments are proposed.

ITEM 1. Amend rules **199—44.2(17A,476,82GA,SF554)199—44.3(17A,476,82GA,SF554)**, parenthetical implementation, by striking "82GA,SF554" and inserting "477A,82GA,SF2248" in lieu thereof.

ITEM 2. Amend rule **199—44.2(17A,476,477A,82GA,SF2248)**, "Municipality," as follows:
"Municipality" means a ~~county or a~~ city.

ITEM 3. Amend subrule 44.3(1) as follows:

44.3(1) *Existing franchise agreements.* A person providing cable service or video service pursuant to a franchise agreement with a municipality in effect before July 1, 2007, is not subject to the requirement to obtain a franchise with respect to such municipality until the franchise agreement expires or, in the case of an incumbent cable provider, until the franchise is converted to a certificate of franchise authority issued by the board. Upon expiration of a franchise, a person may choose to renegotiate a franchise agreement with a municipality or may apply for a certificate of franchise authority from the board. An application for a certificate of franchise authority from a person subject to an existing municipal franchise agreement may be filed within 60 days prior to the expiration of the agreement and, if granted, shall take effect upon the expiration date of the agreement.

ITEM 4. Amend subrules 44.3(5) to 44.3(7) as follows:

44.3(5) *Modification of service area.* At least 14 days before expanding cable service or video service to a previously undesignated service area or making any other change to its previously designated service area, the holder of a certificate of franchise authority shall update the description of its service area on file with the board and shall notify the board ~~upon~~ of the effective date of the expansion or other change in service area using a form developed by and available from the board. The board will acknowledge receipt of a notice of service area modification by letter.

44.3(6) *Transfer of certificate of franchise authority.* The holder of a certificate of franchise authority may transfer the certificate to any successor by filing a notice of transfer with the board and each affected municipality using a form developed by and available from the board. The notice of transfer shall include the address of the successor's principal place of business and the names and titles of the successor's principal executive officers with direct authority over and responsibility for the successor's cable or video operations. A notice of transfer shall be effective on the date which is the later of (1) 14 business days after the date of filing of the notice of transfer with the board or (2) the effective date of transfer as designated by the certificate holder, provided such date is not less than 14 business days after the date the notice of transfer is filed with the board, unless the certificate holder files a notice of rescheduling of the transfer and provides a copy of such notice to each affected municipality. As of the effective date of the transfer, the successor shall assume all regulatory rights and responsibilities of the holder of the certificate. The board will acknowledge receipt of a notice of transfer by letter.

44.3(7) *Termination of certificate of franchise authority.* The holder of a certificate of franchise authority may terminate the certificate by providing written notice of the effective date of termination to the board and to each affected municipality using a form developed by and available from the board. The board will acknowledge receipt of a notice of termination by letter.